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United States Department of Energy
Office of Hearings and Appeals

In the Matter of: Personnel Security Hearing

Filing Date: October 18, 2022

Case No.: PSH-23-0009

Issued: March 29, 2023

Administrative Judge Decision

James P. Thompson III, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the “Individual”) to hold an access authorization under the United States Department of Energy’s (DOE) regulations, set forth at 10 C.F.R. Part 710, “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material.”¹ As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (“Adjudicative Guidelines”), I conclude that the Individual should not be granted access authorization.

I. BACKGROUND

The Individual previously served in the military and is currently employed by a DOE contractor in a position that requires possession of a security clearance. In 2022, the DOE Local Security Office (LSO) discovered concerning information regarding the Individual's failure to report past hospitalizations for mental health reasons. The information prompted the LSO to request additional information and that the Individual be evaluated by a DOE-consultant psychologist ("Psychologist"). After receiving the Psychologist's report from the evaluation, the LSO informed the Individual by letter ("Notification Letter") that it possessed reliable information that created substantial doubt regarding his eligibility to possess a security clearance. In an attachment to the Notification Letter, entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guideline E, Guideline G, and Guideline I of the Adjudicative Guidelines.

¹ The regulations define access authorization as “an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material.” 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. The Director of the Office of Hearings and Appeals appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. At the hearing, the Individual presented the testimony of three witnesses and testified on his own behalf. The LSO presented the testimony of the Psychologist. The Individual submitted seven exhibits, marked Exhibits A through G. The LSO submitted eleven exhibits, marked Exhibits 1 through 11.²

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the LSO cited Guideline E (Personal Conduct), Guideline G (Alcohol Consumption), and Guideline I (Psychological Conditions) of the Adjudicative Guidelines as the bases for concern regarding the Individual's eligibility to possess a security clearance. Exhibit (Ex.) 1 at 5–8.

Guideline E provides that “[c]onduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 15. “Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” *Id.* Conditions that could raise a security concern include “[d]eliberate omission . . . of relevant facts from any personnel security questionnaire . . . or similar form used to conduct investigations . . .” and “[d]eliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to [a] . . . competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative[.]” *Id.* at ¶ 16(a) and (b). In the SSC, the LSO cited the following information. During the psychological evaluation, the Individual substantially underreported his level of alcohol consumption and displayed a lack of candor when responding to questions regarding possible derogatory information about himself. Ex. 1 at 5. The Individual failed to report his past hospitalizations for mental health reasons in his 2022 Letter of Interrogatory (LOI) response, his December 2020 Questionnaire for National Security Positions (QNSP), and his June 2020 QNSP. *Id.* He failed to report in both QNSPs that he received two written reprimands from his employer in 2018. *Id.* And he failed to report on his December 2020 QNSP that he had illegally used testosterone and a substance referred to as “DECA.” *Id.* This information justifies the LSO’s invocation of Guideline E.

Guideline G provides that “[e]xcessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. Conditions that could raise a security concern include “[a]lcohol-related incidents away from work, such as driving while under the influence, fighting, . . . disturbing the peace, or other incidents of concern, regardless of the frequency of the individual’s alcohol use or whether the individual has been diagnosed with alcohol use disorder[.]” and “[d]iagnosis by a duly qualified medical or mental health professional

² The LSO’s exhibits were combined and submitted in a single, 478-page PDF workbook. Many of the exhibits are marked with page numbering that is inconsistent with their location in the combined workbook. This Decision will cite to the LSO’s exhibits by reference to the exhibit and page number within the combined workbook where the information is located as opposed to the page number that may be located on the page itself.

(e.g., physician, clinical psychologist, psychiatrist . . .) of alcohol use disorder[.]” *Id.* at ¶ 22(a) and (d). The SSC cited the following information. In 2022, the Psychologist concluded that the Individual met the *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition*, criteria for diagnosis of Alcohol-Induced Depressive Disorder (AIDD) of moderate severity without adequate evidence of rehabilitation or reformation. Ex. 1 at 6. In 2020, a psychiatrist diagnosed the Individual with Alcohol Use Disorder (AUD), and the Psychologist concluded after the evaluation that the AUD is not in remission. *Id.* at 7. The Individual admitted that from 2016 to 2020 alcohol had a negative impact on his life. *Id.* He was charged with trespassing in 2015 after consuming six to ten alcoholic beverages prior to the incident. *Id.* In 2013, local law enforcement found him “sleeping on the side of the road at four in the morning,” and he consumed alcohol prior to the incident. *Id.* In 2013, he was charged with a violation of military code for conduct he engaged in after consuming five to ten alcoholic beverages. *Id.* Lastly, in 2012, he was late to “muster” due to having consumed too much alcohol the night before, and he was disciplined as a result. *Id.* The cited information justifies the LSO’s invocation of Guideline G.

Guideline I provides that “[c]ertain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness.” Adjudicative Guidelines at ¶ 27. A formal diagnosis of a disorder is not required for there to be a concern. *Id.* Conditions that could raise a security concern include “[b]ehavior that casts doubt on an individual’s judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to . . . self-harm [or] suicidal . . . behaviors”; “[a]n opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness”; and “[v]oluntary or involuntary inpatient hospitalization[.]” *Id.* at ¶ 28(a), (b), and (c). The SSC cited the following information. The Psychologist diagnosed the Individual with AIDD, concluded that it is a condition that impairs judgment and reliability, and opined that the Individual’s “depression and suicidal impulses remain a concern and his risk of committing suicide remains relatively high.” Ex. 1 at 8. The Individual was hospitalized in 2020 and 2021 due to depression, suicidal thoughts, and excessive alcohol consumption. *Id.* Lastly, the Individual was hospitalized after attempting suicide in 2014. *Id.* The cited information justifies the LSO’s invocation of Guideline I.

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The Individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be

clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting his or her eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* at § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

IV. FINDINGS OF FACT

A. Guideline E

The record includes the Psychologist’s 2022 report (Report) produced after he evaluated the Individual and in which the Psychologist noted concerns regarding the Individual’s candor. Ex. 7. In the June 2020 QNSP, the Individual disclosed that his alcohol use from 2016 to 2020 affected his relationship with his wife, he would previously drink excessively, and he considered himself an alcoholic who was presently sober.³ Ex. 10 at 244. During the Psychologist’s evaluation, the Individual provided information regarding his alcohol consumption and stated that he had consumed four alcoholic drinks over the preceding two weeks. *Id.* at 83. As part of the evaluation, the Individual underwent a phosphatidylethanol (PEth) laboratory test to detect his recent alcohol use. *Id.* at 79. The laboratory results were positive at a level of 1774 ng/mL, which, according to the psychiatrist that interpreted the results, is higher than the detection limit of 20 ng/mL and “congruent with heavy alcohol use.” *Id.* at 83. This information led the Psychologist to opine that the Individual had been “drinking far more than he admitted.” *Id.*

The Psychologist also commented on the Individual’s failure to disclose his hospitalizations. Both QNSPs included the question “have you EVER been hospitalized for a mental health condition?” *E.g.*, Ex. 9 at 173. The Individual responded “No.” *Id.* The Individual initially disclosed his 2020 hospitalization after being confronted with the information during a late 2020 interview with a U.S. Office of Personal Management investigator. Ex. 11 at 341. In the LOI, the Individual explained that his failure to report his hospitalization on the QNSP was due to his understanding that the question only called for disclosure of a mandatory, three-day hold. Ex. 6 at 49. However, the Psychologist concluded that the Individual’s explanation was an attempt to rationalize his omission. Ex. 7 at 85–86. The Psychologist further reported that the Individual disclosed during the evaluation that he had attempted suicide in 2014 and had afterward been taken to a hospital and remained overnight. *Id.* at 80, 82.

In his LOI, the Individual disclosed for the first time that he had also been hospitalized in 2021, but he did not disclose the 2014 hospitalization. Ex. 6 at 49, 66. His LOI also included his explanation for failing to disclose two written reprimands from his employer in 2018. According to the December 2020 QNSP, the Individual responded “No” to a question that asked, “in the last seven (7) years have you received a written warning, been officially reprimanded, suspended, or

³ He also described that he had experienced extreme depression, feelings that he “couldn’t stop,” and physical and mental symptoms when trying to stop consuming alcohol. *Id.*

disciplined for misconduct in the workplace, such as a violation of security policy?” Ex. 9 at 208. In the LOI, he explained that “the two reprimands were so benign and internal” that it “didn’t even register to [him] when answering that question.” *Id.* at 49. Finally, he admitted in the LOI that he failed to disclose in his December 2020 QNSP that he illegally used testosterone and the anabolic steroid DECA from September 2015 to January 2016 and explained that he had miscalculated the cutoff date for the time period covered by the question. Ex. 6 at 44, 47; Transcript of Hearing (Tr.) at 67.

At the hearing, the Individual testified that he had been honest about his alcohol consumption in his psychological evaluation and recalled telling the Psychologist that he consumed “mixed drinks and alcohol that weekend[] prior to meeting with him.” Tr. at 59–61.

In reference to omitting the 2014 hospitalization from his QNSPs and LOI, the Individual testified that he did not report it because “it wasn’t a hospitalization” based on his experience as a paramedic and because he “didn’t stay overnight.”⁴ *Id.* at 62. He did not deny that he went to the hospital. *Id.* at 63. He testified, “All I can say is, I guess I misunderstood what was being asked So I guess I apologize. I didn’t understand, I guess, the full situation of what they were asking[.]” *Id.* at 64.

The Individual also explained his failure to report his written reprimands for misconduct and his use of testosterone and DECA. He testified that he omitted the two reprimands because, to him, misconduct means “stealing” or “intentionally doing something.” Tr. at 65. He testified that he received one of the reprimands because he, as the lead paramedic, lost keys, which he self-reported immediately. *Id.* He received the other reprimand because he made an unintentional “medication administration error” by administering the wrong injectable medication to a patient. *Id.* Regarding his unreported use of DECA, the Individual explained that he made a mistake in not including it when he filled out the forms. *Id.* at 68.

The Individual testified that he had not intentionally been dishonest and in the future he would “[d]isclose everything no matter what, even if it’s questionable, at this point.” *Id.* at 69. The Individual’s current supervisor testified that the Individual is mission-dedicated and very conscientious about following rules. *Id.* at 15. The Individual’s friend from military service (military friend) testified that the Individual is extremely trustworthy. *Id.* at 38.

B. Guideline G and Guideline I

As for his history of alcohol use, the Individual testified that he believed alcohol consumption had negatively impacted his life from late 2016 to early 2020. *Id.* at 69. He explained that his consumption increased during that period because of his then-wife, who also consumed alcohol with her work colleagues. *Id.* at 70. He explained that his wife would stay out and come home intoxicated while he would consume alcohol alone in his garage while pursuing his hobbies. *Id.* at 71.

Regarding his 2015 arrest for trespassing, the Individual testified that he had six to ten alcoholic beverages before he interfered with police officers who were attempting to remove his friend from a bar. *Id.* at 72–73. He explained that, based on his military training, he felt obligated to assist his

⁴ This testimony conflicts with the Psychologist’s report of what the Individual stated during the evaluation: that he remained at the hospital overnight after his suicide attempt. *See supra*.

friend despite the instruction from officers to stop interfering. *Id.* He testified that the charge was dropped after he completed community service and paid a fine. *Id.* at 72. Regarding the 2013 incident where law enforcement “found him sleeping on the side of the road,” he testified that he consumed “quite a bit” of alcohol during a welcome home party, left the party to walk to a store, and unintentionally fell asleep when he stopped along the way. *Id.* at 74–75. Lastly, he testified regarding his 2013 arrest for having a weapon on a military base. *Id.* at 75–76. He testified that he consumed five to ten alcoholic beverages before playing with a spring-loaded Airsoft gun and accidentally hitting an individual in the face with a projectile. *Id.*

Next, the Individual testified regarding being late to “muster” in 2012 because he had been consuming alcohol. *Id.* at 77. He had been in an “emergency response unit” and was required to arrive at the base within two hours of being called. *Id.* at 77–78. On the date of the incident, he did not meet the deadline because he had been consuming alcohol the night before; as a result, he lost half of his pay for a month. *Id.*

The Individual also provided additional details regarding his three hospitalizations. The Individual explained that he attempted suicide in 2013⁵ because he was dealing with a stressful work assignment and feelings of guilt associated with losing close military friends. *Id.* at 83. The record indicates that the Individual was diagnosed with Post-Traumatic Stress Disorder in 2013. Ex. 7 at 84. On the evening of the incident, the Individual’s roommate hosted a party despite the Individual’s opposition, and the Individual’s feelings of guilt and alcohol consumption led to his suicide attempt. Tr. at 84.

The Individual also testified about his hospitalization in 2020 and the events that led up to it. During the evaluation, the Individual stated that he placed a firearm under his chin while intoxicated immediately before going to the hospital. Ex. 7 at 82. At the hearing, he explained that he had been dealing with his wife staying out late on multiple occasions, which came to a head one night when she came home intoxicated and “extremely loud and boisterous.” Tr. at 84. After an argument, during which he was subjected to several insults, his wife left, and the Individual felt “lost” and “worthless.” *Id.* at 83, 65.

The Individual testified that he was diagnosed by a Veterans Affairs (VA) physician (“VA doctor”) in 2020 with AUD, and he “did outpatient treatment with [the VA doctor],” which included in-group therapy and attending Alcoholics Anonymous (AA). *Id.* at 80. The Individual was asked about the VA doctor’s records that the Individual only had a couple of phone calls with the VA doctor and then failed to keep his other appointments. *Id.* at 80–81; Ex. 11 at 389. The Individual responded that he did not recall missing the appointments, but he remembered telling the VA doctor that “[he] felt like [he] was doing okay,” so they discontinued the sessions. Tr. at 80. The Individual confirmed that the VA doctor recommended that he abstain from alcohol. *Id.* at 80, 89–90. He also testified that he had “pretty much gotten sober” because he “didn’t touch alcohol for 17 months.” *Id.* However, he also testified that he resumed consuming alcohol before his 2021 hospitalization. *Id.* at 88.

⁵ The Individual testified that he was hospitalized in 2013 instead of 2014. Tr. at 83. This minor discrepancy in the record does not affect my Decision.

Regarding his final reported hospitalization, the Individual disclosed in the LOI that he went to the hospital in 2021 “for suicidal thoughts and severe situational depression” as a result of dealing with a “very ugly and horrible” divorce. Ex. 6 at 66. He testified that he filed for divorce and, in response, his wife contacted law enforcement and obtained the removal of the Individual from their marital home for twenty-four hours; during that time, the wife “emptied the entire house,” which left the Individual “devastated” and feeling like “all of it just came crashing down[.]” *Id.* at 86–87. He testified that he had resumed consuming alcohol about a week-and-a-half before this hospitalization and that he resumed consuming alcohol again afterward. *Id.* at 88, 90–91.

Turning back to the Report, it includes the Psychologist’s diagnosis of AIDD and his recommendation for the Individual to demonstrate rehabilitation and reformation of the condition. Ex. 7 at 88. The Psychologist recommended that the Individual abstain from alcohol consumption with PEth testing approximately every month for a year; attend a rigorous intensive outpatient program for twelve to sixteen weeks, including individual and group therapy; actively participate in AA after completing the outpatient treatment for a year, including working the 12 Steps with a sponsor and attending at least four meetings a week; and consult a psychiatrist regarding verbal therapy and the appropriateness of antidepressive medication. *Id.*

After receiving the Psychologist’s report, the Individual was evaluated by a VA psychiatrist, who he saw twice in person and then continued to meet with through “phone visits.” *Id.* at 95–96. A letter from the VA psychiatrist dated September 2022 states that the Individual is “engaged in treatment” and “does not have a condition which impairs his judgment, reliability, stability, or trustworthiness.” Ex. A. The Individual testified that the VA psychiatrist provided the letter after the two in-person appointments. Tr. at 96. The Individual also testified that he began seeing a therapist in June 2021, and his last formal appointment occurred about a month before the hearing. *Id.* at 99. The Individual testified that the therapist did not think the Individual had an issue with alcohol. *Id.* at 101.

The Individual also testified that he was treated by a doctor through the Employee Assistance Program (EAP) after receiving the Report; he testified that he met with the EAP doctor three times, most recently in December 2022, and he discussed his alcohol use, the administrative hearing, and his mental state. *Id.* He said that the EAP doctor recommended he enroll in an intensive outpatient program, which he started about a month before the hearing. *Id.* at 102–03. The Individual testified that he had met with the outpatient program counselor individually three times, but he had not yet begun the group program. *Id.* at 106. The Individual testified that he had attended two AA meetings since receiving the Psychologist’s report and that he did not plan to obtain a sponsor because he did not “agree with a lot of the AA structure.” *Id.* at 106–07. He testified that he did not consider himself an alcoholic. *Id.* at 108. He also testified that he had continued to consume alcohol, including several alcoholic beverages two weeks before the hearing. *Id.* at 109, 124.

Lastly, the Individual testified that he uses meditation and other tools to cope with situations that would trigger his feelings of depression. *Id.* at 109, 114. The Individual testified that he is not ashamed or embarrassed about the diagnoses contained in the record. *Id.* at 118. He testified that he is presently happy, healthy, and hopeful. *Id.* at 119.

The military friend testified that he and the Individual talk about daily stresses and adversity with regard to work and school. *Id.* at 39. Another close, long-time friend of the Individual testified that

after the Individual's divorce the Individual became "someone who has learned from his mistakes, someone who can . . . take pressure and deal with it and not resort to . . . drugs or alcohol . . . [H]e's not depressed." *Id.* at 45, 51.

The Psychologist testified that AIDD is a variation of AUD; while AUD "describes behavior issues," AIDD is "more about the cause" or a "description" of the behavior. *Id.* at 133. The Psychologist testified that the Individual's PEth result was "among the highest that [he had] ever seen." *Id.* at 136. The Psychologist explained that he had recommended abstinence because he was concerned that the Individual was alcohol dependent, and he recommended the laboratory testing for alcohol use because he did not think the Individual had been honest during the evaluation regarding consumption. *Id.* at 138. The Psychologist also explained that he recommended intensive outpatient treatment because it is an important part of treatment, and he recommended AA because of the accountability and educational aspects. *Id.* at 139.

The Psychologist stated that the Individual had not followed his six recommendations, which were to abstain, undergo frequent PEth tests, complete an intensive outpatient program, be in AA or a similar program, obtain dynamic verbal therapy, and obtain a psychiatric consultation. *Id.* at 142. As to the psychiatric consultation, the Psychologist stated that he disagreed with the VA psychiatrist's conclusion that the Individual did not have a problem given the Individual's history of hospitalization, suicide attempts, and level of alcohol consumption. *Id.* The Psychologist testified that the Individual had not demonstrated reformation or rehabilitation of his AIDD. *Id.* at 151. He also testified that the prognosis was not positive but rather "a little below an average or a medium prognosis." *Id.*

V. ANALYSIS

A. Guideline E Considerations

Conditions that can mitigate security concerns based on personal conduct include the following:

...

- (c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress[.]

Adjudicative Guidelines at ¶ 17.⁶

I conclude that the above mitigating conditions do not apply to resolve the Guideline E concerns. Turning first to ¶ 17(c), I do not find that the Individual's conduct is minor. Omitting requested information during a security clearance investigation is a basis for significant concern. Given the critical nature of the Individual's conduct in omitting information on various occasions all within the past few years, I do not conclude from the record that the passage of time, frequency of the behavior, or the specific circumstances demonstrate that it is unlikely to recur and does not cast doubt on the Individual's reliability, trustworthiness, or good judgment.

Regarding ¶ 17(d), I find that the Individual acknowledged some of his behavior because he acknowledged that he had made a mistake by not disclosing his use of DECA and he apologized for his other omissions. However, the record demonstrates that he has not obtained counseling to address his behavior; and I do not find that he has taken positive steps to alleviate the stressors, circumstances, or factors that contributed to his untrustworthy, unreliable, or other inappropriate behavior. I do not find persuasive his stated intent to disclose everything in the future, "even if it's questionable." The Individual's explanation that he does not consider being treated at a hospital for mental health concerns, including attempted suicide, as being "hospitalized" for the purposes of answering security questions leaves me doubtful regarding his truthfulness and candidness. It also does not explain why he failed to disclose the 2014 hospitalization when he finally disclosed his 2020 and 2021 hospitalizations. Regarding his failure to disclose the two reprimands, he similarly demonstrated questionable judgment by narrowly defining misconduct as only relating to stealing or other intentional conduct. The fact that he was reprimanded by his employer should have indicated to him that it was the type of behavior that should be reported as misconduct. Losing keys could expose records or property to theft or unauthorized access. Administering incorrect medication, even unintentionally, could have severe consequences for patient health. His justification for his omissions does not outweigh my concern that he was motivated by a desire to avoid disclosing information that he perceived to be negative. I therefore remain concerned that he will continue to avoid disclosing potentially derogatory information by unreasonably interpreting security-related questions. Thus, I find that he has not alleviated the stressors, circumstances, or factors that contributed to his omissions. For the same reasons, I conclude that ¶ 17(e) does not apply to resolve the concerns. Accordingly, I find that the Individual has not resolved the Guideline E concerns.

B. Guideline G Considerations

Conditions that can mitigate security concerns based on alcohol consumption include the following:

⁶ The omitted mitigating factors clearly do not apply to the facts of this case for the following reasons. The Individual did not make a prompt, good-faith efforts to correct his concealment before being confronted with the facts. Adjudicative Guidelines at ¶ 17(a). There is no evidence his failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the Individual specifically concerning security processes. *Id.* at ¶ 17(b). There has been no claim that the information in the record regarding his conduct is unsubstantiated or unreliable. *Id.* at ¶ 17(f). Finally, the Individual's association with those involved in criminal activities is not an issue in this case. *Id.* at ¶ 17(g).

- (a) So much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- (b) The individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;
- (c) The individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
- (d) The individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23.

I find that none of the above conditions apply to resolve the Guideline G concerns. My findings are influenced by my remaining concerns regarding the Individual's truthfulness and candidness outlined in the preceding section. Because I rely upon much of the same evidence in analyzing all four of these mitigating conditions, the following analysis addresses them together.

The record contains evidence of some positive actions the Individual undertook after he received the Psychologist's report. He had a few meetings with a VA psychiatrist, began individual counseling, attended two AA meetings, and enrolled in an intensive outpatient program. However, the Individual has not acknowledged his pattern of maladaptive alcohol use as evinced by his decision to continue consuming alcohol despite the recommendations from the VA doctor and the Psychologist that he abstain. Furthermore, the record does not demonstrate that his actions to overcome his problem were in accordance with treatment recommendations. In addition to continuing to consume alcohol, he is still in the initial stages of pursuing the Psychologist's treatment recommendations. He is not meaningfully engaged in AA, and he has not yet started the group portion of the outpatient program. I am persuaded by the Psychologist's opinion that the Individual is not rehabilitated or reformed and that his prognosis is moderate at best. The Individual has not made significant progress towards rehabilitation or reformation, and he has a history of concerning alcohol use, followed by treatment, and then resumed consumption against the advice of a treating professional. For these reasons, I conclude that the Individual has not put forth sufficient evidence to resolve the Guideline G security concerns.

C. Guideline I Considerations

Under Guideline I, the following relevant conditions could mitigate security concerns derived from a psychological condition:

- (a) The identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
- (b) The individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;
- (c) Recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;
- (d) The past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability;
- (e) There is no indication of a current problem.

Adjudicative Guidelines at ¶ 29.

I find that none of the above conditions apply to resolve the Guideline I concerns. Since I rely upon much of the same evidence in analyzing each of these mitigating conditions, the following analysis addresses them together.

As in the preceding section, my findings here are based upon the Individual's failure to follow treatment recommendations. The Individual has not yet significantly participated in a counseling or treatment program to address the AIDD. No duly qualified mental health professional has opined that the Individual's condition is under control, in remission, or one that has a low probability of recurrence or exacerbation. On the contrary, the Individual was hospitalized twice in the past three years for depression and suicidality. At the time of the evaluation, the Psychologist opined that the Individual's "depression and suicidal impulses remain a concern and his risk of committing suicide remains relatively high." I find persuasive the Psychologist's opinion that the Individual's prognosis is not positive given his failure to follow the treatment recommendations.⁷ Accordingly, I do not conclude that the AIDD was temporary, has been resolved, or is not a current problem. Thus, I conclude that the Individual has not put forth sufficient evidence to resolve the Guideline I security concerns.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline E, Guideline G, and Guideline I of the Adjudicative Guidelines. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient

⁷ I make my finding despite the VA psychiatrist's written opinion that the Individual does not have a current problem because the letter does not explain how the VA psychiatrist arrived at his opinion despite the Individual's history of recent hospitalizations, depression, and alcohol use.

evidence to resolve the security concerns set forth in the SSC. Accordingly, I have determined that the Individual should not be granted access authorization.

This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

James P. Thompson III
Administrative Judge
Office of Hearings and Appeals